

## **REMARKS**

Claims 35-53 and 55-68 are pending in the application. Claims 35, 59-64, 66, and 68 are currently amended. Claims 1-34, 37, 65, and 67 are cancelled. The specification has been amended. No new material has been added.

### **I. Errors in The Current Office Action**

Applicant's attorney spoke with Examiner Hardee on February 26, 2008. Applicant noted that Claims 1-11, 13-23 and 54, which were rejected under U.S.C. 103 are not currently pending in the application, pursuant to a previous amendment.

Examiner agreed the Office Action was in error and stated applicant need not reply to the rejections referring to claims no longer pending.

### **II. Objections to the Specification**

The disclosure is objected to because of the following informalities: the drawings should be described under a "Brief Description of the Drawings" heading. The specification is hereby amended accordingly.

### **III. Claim Rejections Under 35 U.S.C. 112, First Paragraph**

Claims 35, 37 and 42-68 stand rejected under 35 U.S.C. 112, first paragraph, because the Examiner argues the specification, while being enabling for the polyamines of claims 36 and 38, does not reasonably provide enablement for any and all compounds which might be considered polyamines, such as amine polymers.

Examiner recommended that the limitations of claim 36 be incorporated into the independent claims to overcome this rejection. Applicant accepts Examiner's recommendation and incorporates the limitations of Claim 37 into the independent claims.

#### **IV. Non-Statutory Double Patenting Type Rejections**

Claims 35-54 and 59-62 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 45 of copending U.S. Patent Application No. 11/054,474. Applicant respectfully traverses.

Claims 35-54 and 59-62, as amended, all relate to compositions comprising at least one alcohol, at least one long-chain alkyl polyamine, and at least one halogen, wherein the composition comprises a mixture of long-chain alkyl polyamine compounds having a range of different alkyl chain lengths.

U.S. Patent Application No. 11/054,474 neither discloses, suggests, or claims compositions which comprise all three elements of at least one alcohol, at least one long-chain alkyl polyamine, and at least one halogen. Therefore, the examined application claims are neither anticipated or would have been obvious over the reference claims.

Claims 35-68 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-40 of copending Application No. 11/569,287. Applicant respectfully traverses.

Application No. 11/569,287 discloses compositions for skin cleansing. The specification and the claims of the present application do not disclose or claim compositions for skin cleansing. Therefore, the examined application claims, as amended, are neither anticipated or would have been obvious over the referenced claims.

#### **V. Claim Rejections Under 35 U.S.C. 103(a)**

Claims 1-11, 13-23 and 54 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,276,047 to Eggensperger et al. ("Eggensperger") in view of U.S. Patent No. 6,387,856 to Ofusu-Asante et al., ("Ofusu-Asante").

Applicant notes that Claims 1-11, 13-23 and 54 are not currently pending. Applicant notes the similarities of the rejected claims to currently pending claims, and elects to comment as follows.

Neither of the cited references prior art documents disclose all features of the invention. Ofusu-Asante relates to a detergent composition comprising iodine ions. In column 10 it is also specified that lower molecular weight alcohols may be used as solvents. However, there is no disclosure of long chain alkyl polyamines. Eggensperger discloses alkyl trimines (column 1) which may be used with alcohols as solvents (column 2). However, there is no mention of the use of halogens.

Eggensperger relates to the provision of a liquid preparation of 1,2-benzisothiazoline-3-one ("BIT") and amines. The background of the invention indicates that BIT is known as an antimicrobial active substance and the use of amine compounds helps provide an aqueous solution of BIT. There is no indication that additional components are needed. There is suggestion that a halogen could, or would, be added to such a preparation to improve its activity.

Ofusu-Asante discloses a liquid dishwashing detergent composition containing iodine. There is no indication that additional components are needed. There is no suggestion that an amine is needed to be introduced into this detergent composition.

First, the documents are in different technical areas. Ofusu-Asante relates to detergent compositions. Eggensperger relates to improving the properties of a specific substance 1,2-benzisothiazoline-3-one ("BIT"), which is not disclosed in Ofusu-Asante. Indeed, the international classifications of the documents are very different.

Furthermore, Ofusu-Asante discloses a liquid dishwashing detergent composition containing iodine. There is no indication that additional components are needed. There is no BIT disclosed in Ofusu-Asante, and therefore no reason to use the amine of Eggensperger, which is used to help the activity of the BIT. Therefore, a person skilled in the art would not consider combining these inventions.

It is well established that, in order to show obviousness, all limitations must be taught by the prior art. In Re Royka, 180 U.S.P.Q. 580, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (CCPA 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (CCPA 1974); In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (CCPA 1973).

Furthermore, a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. KSR Int'l Co. v. Teleflex, 127 S.Ct 1727, 1741 (2007). As former Chief Judge Markey of the Federal Circuit has stated, "virtually all inventions are 'combinations', and ... every invention is formed of 'old elements' .... Only God works from nothing. Man must work with old elements." H.T. Markey, *Why Not the Statute?* 65 J. Pat. Off. Soc'y 331, 333-334 (1983). The factfinder should be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. KSR Int'l Co. v. Teleflex, 127 S.Ct at 1742.

## **VI. Conclusion**

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that Claims 35-36, 38-53, 55-64, 66, and 68 are in condition for allowance and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, the Examiner is courteously requested to contact applicant's undersigned representative.

The Commissioner is authorized to charge any additional fees associated with this filing, or credit any overpayment, to Deposit Account No. 50-0653. If an extension of time is required, this should be considered a petition therefor.

Respectfully submitted,

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